

MINUTES  
KANSAS BOARD OF VETERINARY EXAMINERS  
Tuesday, February 8, 2011 and Wednesday, February 9, 2011  
Senate Luxury Suites and State Capitol Building, Topeka, Kansas

This meeting of the Kansas Board of Veterinary Examiners was called to order at 7:06pm by Board President, Dr. Vern Otte. Board Members in attendance were Dr. Otte, Dr. Barta, Dr. Bogue and Dr. Olson. Board Members Mr. Correll and Dr. Painter participated in the meeting via teleconference line. Board Member Dr. Carlson was absent due to weather issues. Also present were agency staff Dr. Dirk Hanson and Mr. Larry O'Hara. Board General Counsel Athena Andaya was also present. Board Litigation Counsel Laurie Kahrs participated in the meeting via teleconference line.

Board Members were also joined by KVMA President Dr. Sheila Dodson and KVMA Executive Secretary Gary Reser. KVMA Counsel Greg Dennis participated in this meeting via teleconference line.

Dr. Otte called upon Mr. Greg Dennis for his input regarding proposed legislation changes to the confidentiality statute KSA 47-839. Board Members were provided a copy of the proposed statutory changes contained in the House Bill introduced earlier today by Senator Steve Abrams. Input was provided by Mr. Dennis, Ms. Kahrs, Dr. Dodson, and Ms. Andaya. After considerable discussion, the Board members, by consensus, recommended that they meet with Senator Abrams and inform him of their opposition to the bill, and see if there was any way Senator Abrams would withdraw the bill.

This meeting was recessed at 8:45pm and set to reconvene at 8:00am the next morning at the State Capitol.

The Board meeting reconvened at 08:07am on February 9, 2011 at the State Capitol. Board members at the Capitol were Dr. Otte, Dr. Olson, Dr. Barta, and Dr. Bogue. Board Members Mr. Correll and Dr. Painter joined the meeting via conference call. General Counsel Athena Andaya and agency staff Dr. Hanson and Mr. O'Hara were present for this meeting. Litigation Counsel Laurie Kahrs also participated via teleconference call.

A public forum for non-agenda items was offered with no members of the public requesting to appear. No one from the public appeared or participated in this meeting.

After review of the tentative agenda for this meeting, Dr. Mark Olson moved to approve the agenda as written. Dr. Greg Bogue seconded the motion. This motion passed on a voice vote with no dissenting votes. Board members then reviewed the itinerary for legislative visits and Dr. Hanson provided attending Board members with information sheets to provide to the legislators they met with.

Dr. Hanson then provided board members with a copy of the KVMA's position on HB2120 to include their support of an amendment to exclude fee funded agencies from this bill. HB2120 was introduced without the exclusion amendment and the bill is currently in committee. (same bill as 2442 from last year). The KVMA and the Real Estate Board will offer amendments to exclude fee funded agencies from

this bill. By consensus, the Board members indicated they would support the amendment to exclude fee funded agencies from this legislation.

Dr. Otte then requested opinions from Ms. Kahrs and Ms. Andaya as to the previous evening's discussion on KSA 47-839. Ms. Kahrs stated she disagreed with the proposed amendment to this statute and felt that it does not need to be amended. Dr. Otte stated he would like to see this bill killed or at least be allowed more time (1year) to further review this proposal. Mr. Correll stated he concurred with Dr. Otte and Ms. Kahrs on this issue. Dr. Olson stated he felt we need to stop this bill from getting out of the legislative committee.

Dr. Hanson asked Ms. Andaya for her legal opinion as to if there is harm to the public with the current language of KSA 47-839. Ms. Andaya stated in her opinion, KSA 47-839 currently serves to protect the public health, welfare and safety and that the current statute provides what is needed for the Board.

After further discussion, Dr. Olson moved to leave KSA 47-839 as it is currently written without changes unless it is proven at a later time to need modification. Mr. Correll seconded this motion. This motion passed on a voice vote with no dissenting votes.

Ms. Andaya then recommended that someone from the KBVE speak with Senator Abrams and ask him not to set this bill for hearing citing that if this bill went for a hearing, a committee member could amend it. Dr. Hanson stated a meeting with Senator Abrams was scheduled for later that day to provide the Board's position.

Dr. Hanson then provided Board members with information regarding responses to the proposed AVMA Model Practice Act. Mr. Correll stated he was concerned with the referral issues and would prefer to take an animal directly to a non-veterinarian practitioner if that was allowable versus paying a veterinarian to assess the animal before a referral was granted.

Ms. Andaya indicated she also had concerns with the language "charged with a felony" and using the fact a person was charged with a felony to initiate disciplinary action. Ms. Kahrs stated she agreed with Ms. Andaya and added the KBVE could not take action solely based on a person being charged with a felony but could use the information provided to initiate an investigation into any applicant who discloses being charged with a felony and the Board could delay licensure of that individual pending that investigation. Ms. Andaya stated rules and regulations needed to go before the rules and regulations committee to see if those questions could be asked of applicants or renewal licensees.

The Board then asked Ms. Andaya two questions and asked that she research these questions and provide an update/response to these questions at the next meeting of the Board.

Question 1: Do we (KBVE) have the statute authority to issue regulations on pain management?

Question 2: Do we (KBVE) have the statute authority to ask if a person has been charged with a felony on license applications or license renewals?

Ms. Kahrs stated that "charged with" should be a disclosure requirement so the Board can investigate to see if they should license an individual or not. Ms. Andaya stated she would research these questions and provide information to the Board at the next scheduled meeting.

As to the information provided relative to the proposed AVMA Model Practice Act revisions, Dr. Bogue moved that the KBVE forward the information on to the AVMA and request the AVMA form a commission to develop model practice act language in which non-veterinary practitioners could practice in a manner which promotes public health, welfare and safety. Dr. Olson seconded this motion. This motion passed on a voice vote with no dissenting votes. Dr. Otte requested Dr. Hanson send copies of all information forwarded to the AVMA to Board members.

At 09:50am, the Board meeting was recessed to allow Board members to meet with legislators. The meeting reconvened at 10:45am.

Ms. Kahrs then updated Board members on a Consent Agreement and Order entered into between the Board and Dr. Ralph Alter of Coffeyville, Kansas. Dr. Otte stated it was his position that the KBVE should receive information from clients and thank them for their input and take no further action at this time relative to this case.

Board members then discussed KSA 47-842 dealing with amount of fines that could be imposed. Dr. Hanson indicated that former Board General Counsel Mary Feighny was of the opinion that \$5000 was the maximum amount of fines that could be assessed to a respondent in a case and not \$5000 per count or violation. Ms. Kahrs stated her opinion was the same as Ms. Feighny's in this regard. Ms. Kahrs stated if the statutes are amended, she would propose adding "per violation" to the statute.

Ms. Andaya stated in her opinion, the language in KSA 47-842 says not in excess of \$5000 for any of the causes with emphasis on causes being pleural. Ms. Andaya stated her initial reading of this statute is that Ms. Feighny was in fact correct but she would like to further review this matter. Ms. Kahrs indicated she would provide Ms. Andaya with legislative history relative to this. Ms. Andaya stated other Boards she works with have language to the effect of "per violation." Dr. Olson stated that in some cases \$5000 does not cover investigative expenses however if this statute was ever up for revision, the fine amount could actually be decreased. Dr. Olson stated he would like to see this statute read "per violation" as well. Dr. Otte then asked Ms. Andaya to review this statute and report her findings to the Board at the next scheduled meeting.

Dr. Olson then moved that if this statute is ever up for revision he wanted \$5000 per violation added to the language and directs that the language also include language allowing the agency to recover investigative expenses over and above the fine amount per violation. Dr. Bogue seconded this motion. This motion passed on a voice vote with no dissenting votes.

Mr. O'Hara, at the direction of Dr. Hanson, then updated Board members on on-going compliant case status and reviewed recently completed cases handled by Board members.

Ms. Andaya then updated Board members regarding the recent case involving Dr. Terry Jackson. Ms. Andaya stated the initial order issued had issues relative to jurisdictional matters and that a new notice of relief was issued with no changes to the final order issued.

Dr. Hanson then asked Board members for their input if this review of current case status and recently completed cases was beneficial to them. All Board members indicated this was beneficial and asked that this be included as an agenda item on all future Board meetings.

Board members then reported on their contacts with legislators. Dr. Otte stated he met with Dr. Abrams with Dr. Hanson, Dr. Bogue and Dr. Barta and that Dr. Abrams told him he promised to kill the bill that had been introduced to modify the confidentiality statute. Dr. Otte stated he also saw the chairman of that committee that was to hear the bill and the chairman said he would take the bill off the schedule.

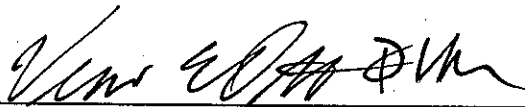
Dr. Bogue then moved to approve the minutes from the 12-03-10 Board meeting. Dr. Barta seconded this motion. This motion passed on a voice vote with no dissenting votes.

Dr. Hanson stated that raises previously approved by the Board for agency staff are still being worked on and are supposed to be in place by February 20, 2011.

Board members then reviewed dates for upcoming meetings. The next meeting of the Board will be on April 29, 2011 in Wamego. Following that, dates for other meetings will be June 5, 2011 in Manhattan and August 26, 2011 in Wamego. Dr. Hanson reported the AAVSB conference in New Orleans is September 14-17 and the CVC conference in Kansas City is August 27-30.

Having no other business to discuss at this time, Dr. Barta moved to adjourn this meeting. Dr. Bogue seconded this motion. This motion passed on a voice vote with no dissenting votes. This meeting was adjourned at 11:30am.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

4/29/11